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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,652	06/19/2001	Brent D. Emerson	DSCK-1223-C1	3487

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ANTHONY M. LORUSSO
LORUSSO & LOUD
440 COMMERCIAL STREET
BOSTON, MA 02109

EXAMINER

HUNTER, ALVIN A

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,652

Applicant(s)

EMERSON ET AL.

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 15 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The corrected or substitute drawings were received on October 15, 2002. These drawings are accepted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-10, 12-15, 17-20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadorniga et al. (USPN 5415937) in view of Shaw (USPN 4877252) and Oka et al. (USPN 5072945).

Cadorniga et al. discloses a golf ball having a cover resulting in a golf ball having improved resilience and playability characteristics (See Abstract). The cover comprises a blend of a high modulus ionomer and a low modulus ionomer, in which the high modulus ionomer has a melt index of 0.5-5.0 g/10 min. and flexural modulus of 60000 to 120000 psi and the low modulus ionomer has a melt index of 0.5-10.0 g/10 min and a flexural modulus of 2000 to 8000 psi (See Abstract and Column 3, lines 28 through 65). The high modulus ionomer has a hardness of 70 or greater and comprises 75-80% of an olefin, or ethylene, 20-25% of an alpha, beta ethylenically unsaturated carboxylic acid such as acrylic or methacrylic acid having 10-90% of the carboxylic acid groups neutralized with sodium, lithium, zinc or magnesium ions (See Column 3, lines 28

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through 43). The low modulus ionomer has a hardness of 20 to 50 and comprises 67-70% of ethylene, 20-23% of n- or iso-butyl acrylate, and 10% of methacrylic acid where 10-90% of the acid groups are neutralized by sodium, zinc, or lithium ions (See Column 3, lines 56 through 65). The total cover composition comprises 80-50% of high modulus ionomer and 20-50% of low modulus ionomer (See Column 4, lines 12 through 26).

Cadorniga et al. does not disclose a golf ball having a dodecahedron dimple pattern on the surface of the golf ball. Shaw discloses a golf ball having a dodecahedron dimple pattern to enhance the flight performance of the golf ball (See Figures 1-4 and Column 1, lines 1 through 60). The invention of Shaw can be arranged so that the dimple pattern will influence the axis of spin (See Column 1, lines 55 through 60). OFFICIAL NOTICE was taken that the arrangement of dimples along the great circle influences the axis of spin and type of hitting the golf ball is suited for. Oka et al. discloses a golf ball having no dimples intersecting the great circle line to eliminate the difference in the trajectory heights of seam hitting and pole hitting (See Column 2, lines 31 through 43). It is noted by Oka et al. that the arrangement of the dimples arrangement of the dimples with respect to the parting line, or great circle, influences the trajectory height (See Background of the invention). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have any number of great circles on a golf ball, being free of dimples, dividing the pentagons within a dodecahedron pattern into triangles, as taught by the Oka et al. and Shaw, in order to optimize the flight performance of the golf ball by influencing the axis of spinning. Oka et al. has been substituted in place of the OFFICIAL NOTICE, therefore, the rejection

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has not been changed. Shaw also shows a pentagon comprising three rows of dimples when the pentagon is broken into triangles from its center (See Figures 3 and 4). The first dimple (B) sits on the center of the pentagon and, therefore, make up the first row, in which coincide. A second dimple (B) sits in the second row and coincides with both the second and third row. The third row comprises two inside dimples (A) and two outside dimples (A) in which also coincide with other third rows. The dimples are different sizes (See Column 2, lines 48 through 61). The configurations of Shaw are all aimed to enhance the flight performance of the golf ball and, therefore, would be obvious to arrange the dimples in any configuration. It would also appear that the number of dimples and great circles are merely design choices due to the fact that the applicant does not state the reason as to why 360 dimples and 10 great circles are critical to obtain the invention. In the background of the invention of the present application the applicant admits that the different between the prior art and the present invention is that the dimples configuration is not combined with a core and cover, therefore, implying that the dimple configuration would accomplish the same regardless of the number of great circles. It would appear that any number of dimples would be adequate for achieving the applicant's invention simply because the applicant does not state any disadvantages as to why one of ordinary skill in the art should not use 360 dimples. Furthermore, it would appear that the dimensions of the dimples is a design choice also due to the fact that no advantages or disadvantages as to why one of ordinary skill in the art should use only the dimension disclosed by the applicant;

therefore, it would appear that any dimple dimension is suitable for obtaining the applicant's invention.

2. Claim 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1-10, 12-15, 17-20 above in view of Cadorniga (USPN 5470076).

The prior art as applied to claims 1-10, 12-15, 17-20 above do not disclose a dimple having dual radii. Cadorniga discloses a golf ball having a plurality of dimples to improve range and accuracy of a golf ball in which the dimples comprise of a minor dimple within a major dimple (See Summary of the Invention). It is clearly shown within Figure 2, that the dimple has two radii; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a dimple with dual radii, as taught by Cadorniga, in order to improve the range and accuracy of the golf ball.

Response to Arguments

Applicant's arguments filed October 15, 2002 have been fully considered but they are not persuasive. The applicant argues that the Shaw reference teaches the invention benefiting from the overlapping of dimples and not the arrangement of dimples. The examiner respectfully disagrees. Though the dimple in the Shaw reference overlap, it is noted that the dimples can be placed in a number of arrangements (See Column 1, lines 35 through 44). It is further submitted that the applicant does not point the arrangement of the dimples being the novelty of the invention. As stated above, the applicant never gives any criticality or show that the number of great circles has

unexpected results. Even if the results are unexpected, the applicant has the duty to show that the results are unexpected.

"It is well settled that unexpected results must be established by factual evidence."

In re De Blauwe, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed Cir. 1984)

In regards to the OFFICIAL NOTICE, the OFFICIAL NOTICE does not negate from the invention nor is it hindsight. Again the applicant does not state the critically of having 10 great circles. Ones having ordinary skill in the art are aware of the fact that having dimples on or along great circles influence the axis spin and type of ball hitting, therefore, Oka et al. has been substituted for the OFFICIAL NOTICE.

In regards to the double patenting rejection, it has been withdrawn.

In reply to the applicant's arguments the above action has been furnished.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Paul T. Sewell
Supervisory Patent Examiner
Group 3700